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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,082	12/23/2003	Shinji Furukawa	246903US6	8109
22850	7590	09/11/2007		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
			EXAMINER	
			WHIPKEY, JASON T	
		ART UNIT	PAPER NUMBER	
		2622		
		NOTIFICATION DATE	DELIVERY MODE	
		09/11/2007	ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

**Application No.**

10/743,082

**Applicant(s)**

FURUKAWA, SHINJI

**Examiner**

Jason T. Whipkey

**Art Unit**

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 101***

2. The amendment to claim 6 has obviated the rejection under 35 U.S.C. 101. The rejection under this section is withdrawn.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3 and 5-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Myojo (U.S. Patent Application Publication No. 2003/0122940).

Regarding **claims 1, 5, and 7**, Myojo discloses an image processing apparatus (digital camera 100) to capture an object and record a captured image (see paragraphs 49-51) comprising:

a creation means (control circuit 105) for creating one composite image from an arrangement of a plurality of associated captured small images (an index image data file 502 is produced when more than one image is stored on memory card 120 and appears as shown in Figure 5C; see paragraphs 62-64);

image file creation means (control circuit 105) for creating an image file (index image data file 502 in Figure 6) including a vertical size and a horizontal size (inherent) of each of the plurality of associated captured small images in the composite image (see Figure 5C and paragraphs 62-64);

a display control means (display/switch control circuit 108) for controlling display of the composite image (on LCD 102; see paragraph 61); and

an extraction means (control circuit 105) for extracting a specified small image from the composite image whose display is controlled by the display control means (activating a replace button 404R in Figure 5D will remove — or extract — an image currently in the index image data file and replace it with another; see paragraph 62).

Regarding **claims 2 and 8**, Myojo discloses:

a storage means (memory card 120) for storing the composite image created by the creation means (see paragraph 64).

Regarding **claims 3 and 9**, Myojo discloses:

a determination means for determining whether or not the specified small image is selected from the composite image whose display is controlled by the display control means, wherein, when the determination means determines that the specified small image is selected, the extraction means extracts data corresponding to the specified small image from the composite image stored in the storage means (activating a replace button 404R in Figure 5D will remove — or extract — an image currently in the index image data file selected by an operator and replace it with another; see paragraph 62).

**Claim 6** can be treated like claim 1. Additionally, control circuit 105 executed a program stored in memory 105M (see paragraph 50).

### *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myojo in view of Tamura (U.S. Patent Application Publication No. 2002/0048455).

Art Unit: 2622

**Claims 4 and 10** can be treated like claims 1 and 7, respectively. While Myojo discloses that the index files can be printed (see paragraph 133), he is silent with regard to extracting a specific image for printing.

Tamura discloses an electronic camera, including:

a print instruction means (transmitted-receiver unit 40) for transmitting a small image extracted by the extraction means to an image print apparatus (220) and instructing to start printing (selected thumbnails from an index image are sent to the printer; see paragraph 219).

Using the known technique of selecting desired images for printing from a screen on a digital camera would allow a user to conserve ink and paper, since only small reproductions of preferred images would be printed. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Myojo's system extract images for printing, as described by Tamura.

### ***Conclusion***

7. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

Art Unit: 2622

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Whipkey, whose telephone number is (571) 272-7321. The examiner can normally be reached Monday through Friday from 9:00 A.M. to 5:30 P.M. eastern daylight time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye, can be reached at (571) 272-7372. The fax phone number for the organization where this application is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JTW

JTW  
August 29, 2007

  
LIN YE  
SUPERVISORY PATENT EXAMINER